

**IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF TEXAS  
DALLAS DIVISION**

|  |   |                          |
|--|---|--------------------------|
| <b>DEON LAVELL WHITE, 1572179,</b>           | ) |                          |
| <b>Petitioner,</b>                           | ) |                          |
|  | ) |                          |
| <b>v.</b>                                    | ) | <b>No. 3:14-CV-778-D</b> |
|  | ) |                          |
| <b>WILLIAM STEPHENS, Director, TDCJ-CID,</b> | ) |                          |
| <b>Respondent.</b>                           | ) |                          |

**FINDINGS, CONCLUSIONS AND RECOMMENDATION  
OF THE UNITED STATES MAGISTRATE JUDGE**

This case has been referred to the United States Magistrate Judge pursuant to 28 U.S.C. § 636(b) and a standing order of reference from the district court. The Findings, Conclusions and Recommendation of the Magistrate Judge follow:

**I.**

The Fifth Circuit Court of Appeals remanded this case for a determination of whether Petitioner filed his notice of appeal on or before June 26, 2015.

On May 27, 2015, the district court entered final judgment in this case. Under Federal Rule of Appellate Procedure 4(a)(1)(A), Petitioner had thirty days after entry of the final judgment to file his notice of appeal. Thirty days from May 27, 2015, is Friday, June 26, 2015.

On July 7, 2015, the court received Petitioner's notice of appeal. Petitioner dated the notice of appeal as June 26, 2015. A prisoner's filing is considered filed on the date he deposits the filing in the prison's internal mail system. *See* Fed. R. App. P. 4(c)(1).

**Findings, Conclusions and Recommendation  
of the United States Magistrate Judge**

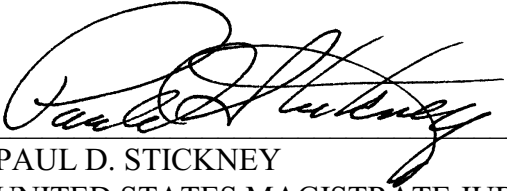
On September 23, 2015, this Court ordered Respondent to file a copy of the prison mail logs for the dates of June 1, 2015 through July 1, 2015. The logs show that on June 30, 2015, Petitioner delivered a mailing to his prison unit which was addressed to the district court. (ECF No. 30, Ex. A.) Prison officials placed the mailing into the United States mail on July 2, 2015. (*Id.*) On July 7, 2015, the district court received Petitioner's notice of appeal, which was postmarked July 2, 2015.

The Court finds that Petitioner filed his notice of appeal by depositing it in the prison internal mail system after the June 26, 2015, deadline. Petitioner also did not file a motion for extension of time to file his notice of appeal.

## II.

For the foregoing reasons, the Court recommends that the district court find that Petitioner's notice of appeal was filed after the June 26, 2015, appeal deadline.

Signed this 21<sup>st</sup> day of October, 2015.



PAUL D. STICKNEY  
UNITED STATES MAGISTRATE JUDGE

**INSTRUCTIONS FOR SERVICE AND**  
**NOTICE OF RIGHT TO OBJECT**

The United States District Clerk shall serve a copy of these findings and recommendations on Petitioner. Pursuant to 28 U.S.C. § 636(b)(1), any party who desires to object to these findings and recommendations must file and serve written objections within fourteen (14) days after being served with a copy. A party filing objections must specifically identify those findings and recommendations to which objections are being made. The District Court need not consider frivolous, conclusory or general objections. The failure to file such written objections to these proposed findings and recommendations shall bar that party from a *de novo* determination by the district court. *See Thomas v. Arn*, 474 U.S. 140, 150 (1985). Additionally, the failure to file written objections to proposed findings and recommendations within fourteen (14) days after being served with a copy shall bar the aggrieved party from appealing the factual findings and legal conclusions of the Magistrate Judge that are accepted by the District Court, except upon grounds of plain error. *See Douglass v. United Servs. Auto. Ass'n*, 79 F.3d 1415, 1417 (5th Cir. 1996)(en banc).